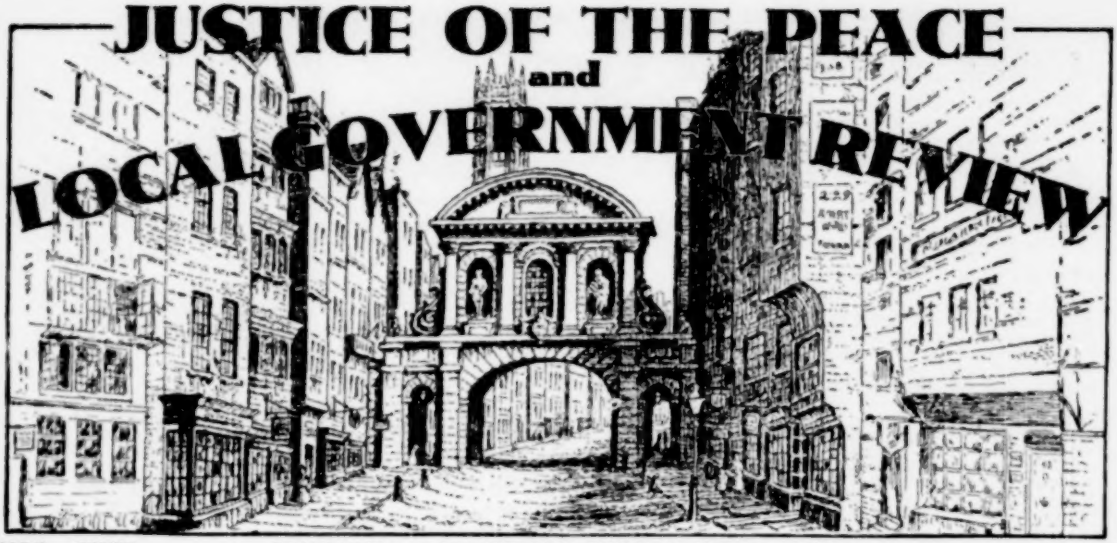
JUSTICE OF THE PEACE
and
LOCAL GOVERNMENT REVIEW



VOL. CXIV. LONDON: SATURDAY, FEBRUARY 25, 1950. No. 8

CONTENTS

REPORTS

Official Advertisements, Tenders, etc.

Official Advertisements (Appointments, Tenders, etc.), 2s. per line and 3s. per displayed headline. Miscellaneous Advertisements 24 words 6s. (each additional line 1s. 6d.) Box Number 1s. extra. *Latest time for receipt—9 a.m. Wednesday.*

None of the vacancies in these columns relates to men and women coming within the provisions of the Control of Engagement Order, 1947, S.R. & O., No. 1971, or the vacancy is for employment excepted from the provisions of the Order.

COUNTY BOROUGH OF NEWPORT (MONMOUTHSHIRE)

Additional Full Time Male Probation Officer

APPLICATIONS are invited for the above appointment. Applicants must be not less than 21 years nor more than 40 years of age.

The appointment will be subject to the Probation Rules, 1949. The salary will be in accordance with the prescribed scale.

The successful applicant will be required to pass a medical examination.

Applications, stating age, present position, qualifications and experience, together with copies of not more than two recent testimonials, must reach me not later than first post on March 11, 1950. Envelopes should be endorsed "Probation Officer."

R. J. ROWLANDS,
Secretary to the Probation Committee.

Magistrates' Clerk's Office,
Civic Centre,
Newport, Mon.

STAFFORDSHIRE COUNTY COUNCIL

Children's Officer

APPLICATIONS are invited for the appointment of Children's Officer (male or female) for the Administrative County of Stafford at a salary scale of £900 per annum rising by annual increments of £50 to a maximum of £1,050 per annum. The actual commencing salary within such scale will be such amount as may be appropriate having regard to the qualifications and experience of the person appointed.

Applicants must have had wide experience in dealing with children deprived of normal home life, including children in Homes, Institutions and boarded-out. It will be an advantage if applicants are University Graduates with a Social Science Diploma. The appointment will be terminable by three months' notice in writing on either side and will be subject to the provisions of the Local Government Superannuation Acts, and the successful candidate will be required to pass a medical examination.

Applications, endorsed "Children's Officer," stating age, qualifications and experience, and accompanied by copies of three recent testimonials should reach me, the undersigned, not later than February 28, 1950.

Canvassing in any form will be a disqualification and candidates must state in their application whether or not they are related to any member of the County Council.

Applications received in response to previous advertisements in respect of this appointment will also receive consideration.

T. H. EVANS,
Clerk of the County Council.

County Buildings,
Stafford.
February, 1950.

BOROUGH OF HEMEL HEMPSTEAD

Deputy Town Clerk

SOLICITORS and others with local government experience are invited to apply for the post of Deputy Town Clerk. The salary will be within the range from A.P.T. VII to A.P.T. IX inclusive according to the possession or otherwise of a legal qualification and to the extent of local government experience. Further particulars of the appointment can be obtained from me. Applications (stating age, full particulars of legal qualification, local government experience, salary required and the names and addresses of two persons to whom reference may be made) must reach me by Wednesday March 1, 1950.

C. W. G. T. KIRK,
Town Clerk.

COUNTY BOROUGH OF SOUTHEND-ON-SEA AND PETTY SESSIONAL DIVISION OF ROCHFORD

APPLICATIONS are invited for appointment of male assistant in the office of the Clerk to the Justices at a salary in accordance with the General Division of the National Joint Council's Scales and subject to the provision of the Local Government Superannuation Act, 1937.

Applicants should be between 20 and 25 years of age, and preference will be given to a person with pervious experience and having a knowledge of accounts, typewriting and shorthand. Every facility will be given to the successful applicant to qualify under the Justices of the Peace Act, 1949. Applications, without testimonials in the first instance, should be addressed to me within 14 days from the date of publication of this advertisement.

H. HOMERAY COOPER,
Clerk to the Justices.

1, Nelson Street,
Southend-on-Sea.

BOROUGH OF HARTLEPOOL

Town Clerk's Department—Conveyancing and Legal Clerk

APPLICATIONS are invited for the above appointment at a salary in accordance with A.P.T. Grade II (£420 x £15—£465). Applicants must have had considerable experience in conveyancing and related matters including compulsory acquisitions and must be capable of acting with nominal supervision. Local Government experience will be an advantage.

Housing accommodation will be available if required.

Applications, stating age, education and particulars of experience, accompanied by one recent testimonial and the names of two other persons to whom reference may be made as to the applicant's character and ability, must reach the undersigned not later than Monday, March 12, 1950.

L. O. WILLIAMS,
Town Clerk.

Borough Buildings,
Hartlepool.

BOROUGH OF MARGATE

Temporary Conveyancing Clerk

APPLICATIONS are invited for the above appointment at salary A.P.T. Grade III of the National Salary Scales (£450 - £15 to £495 per annum) in the Town Clerk's Office.

Applicants must have had experience in conveyancing (including compulsory acquisitions) contracts and agreements and must be capable of acting with slight supervision. Local Government experience and ability to type will be an advantage.

The appointment is for a period of approximately two years and will be determinable by one month's notice on either side.

Applications, together with the names and addresses of three referees, must reach me by March 6, 1950.

Canvassing, directly or indirectly, will be considered a disqualification, and applicants must disclose any relationship within their knowledge to a member or senior officer of the Council.

T. F. SIDNELL,
Town Clerk.

40, Grosvenor Place,
Margate.

COUNTY OF LEICESTER

Weights and Measures Department

APPLICATIONS are invited from people holding the Board of Trade Certificate of Qualification for appointment as additional Inspector of Weights and Measures. Salary grade A.P.T. II/IV £420—£525 per annum.

The successful candidate will be required to carry out, under the direction of the Chief Inspector, duties in connexion with the Weights and Measures Acts, the Food and Drugs Act, 1938, Shops Acts, Pharmacy and Poisons Act, 1933, Fertilizers and Feeding Stuffs Act, 1926, Agricultural Produce (Grading and Marking) Act, 1928, Merchandise Marks Act, 1926 and such other duties as may from time to time be allocated to the Department.

The appointment is subject to the provisions of the Local Government Superannuation Act, 1937, and the successful applicant will be required to pass a medical examination.

Applications, stating age, qualifications and full details of previous experience, together with copies of not more than three recent testimonials, endorsed "Additional Inspector of Weights and Measures," must be received by the undersigned not later than April 1, 1950.

JOHN A. CHATTERTON,
Clerk of the County Council.

County Offices,
Grey Friars,
Leicester.

SITUATIONS VACANT

LONDON Solicitors require unadmitted managing clerk experienced in criminal law and practice; salary £600-£750 according to ability.—Write Box 655, Reynells, 44, Chancery Lane, W.C.2.

Justice of the Peace
and
Local Government Review
[ESTABLISHED 1837.]

VOL. CXIV. No. 8. | LONDON: SATURDAY, FEBRUARY 25, 1950 | Price 1s. 8d.
Pages 96-107 | Offices: LITTLE LONDON, CHICHESTER, SUSSEX. | [Registered at the General Post Office as a Newspaper]

NOTES of the WEEK

A Report from West Ham

The report of the West Ham magistrates' court for the year 1949 contains elaborate statistical tables which are naturally of more interest to the local justices and officials than to a wider public but there are passages of general interest, especially in the report of the senior probation officer.

A high percentage of probation successes is claimed, and this is followed by the significant statement: "When it is noted that all those who failed had previously been in trouble, some with four and five previous court appearances, it is not surprising that probation failed to bring success."

Matrimonial work continues to be heavy and difficult, but the probation officers strive to help parties towards reconciliation. It is stated that where the problems seem to be beyond the capacity of the probation officers, they are glad to call in the help of the local Marriage Guidance Council which has recently been set up in the borough.

The work of the juvenile court showed a welcome decrease, 497 juveniles appearing in 1949, against 600 in 1948.

After-care work has grown as the result of the coming into operation of certain sections of the Criminal Justice Act, 1948. The attitude of the probation officers is indicated thus: "Here is a great opportunity for useful service and in the coming year: it is expected that our service will be in greater demand."

Mr. G. V. Adams, the recently appointed clerk to the justices, contributes a useful section of the report, in which he brings to the notice of the justices some of the provisions of the Justices of the Peace Act, 1949, which will affect them when those sections are brought into force.

Classification of Motor Vehicles: Meaning of "Constructed"

In the case of *Hubbard* v. *Messenger* [1937] 4 All E.R. 48, 101 J.P. 533, the point in issue was the permitted speed of a Ford utility car, and the decision involved the interpretation of the phrases in sch. 1 to the Road Traffic Act, 1930 "vehicles constructed solely for the carriage of passengers and their effects" and "vehicles constructed or adapted for use for conveyance of goods," etc. The court, after emphasizing the importance of the word "solely" in the first phrase went on to consider "constructed or adapted" and said that they mean what one would naturally expect them to mean and that as they are both past participles they mean "originally constructed" or "subsequently adapted."

The case of *Keeble* v. *Miller* [1950] 1 All E.R. 261 makes it clear that this interpretation of "constructed," in the particular context in which it occurs in sch. 1 to the 1930 Act, is not to be applied necessarily where the same word is used elsewhere in the same Act. Section 2 (1) of the Act divides motor vehicles into four classes, two of which are "light locomotives" which *are not constructed themselves to carry any load*, and "heavy motor cars" which *are constructed themselves to carry a load*. The case concerned a vehicle which had been an army lorry, and had been converted to carry a diesel lighting plant secured to it, and loose equipment for the vehicle. By s. 18 of the 1930 Act a light locomotive may draw three trailers and a heavy motor car only one. The court held that in deciding the appropriate classification of the vehicle its condition at the material time was the relevant consideration and that in s. 2 (1) "constructed" means *not* "originally constructed" but "constructed at any material time." There was the further consideration, in this case, whether in spite of the installation of the diesel lighting set the vehicle in that condition could properly be said to be constructed to carry a load (the lighting set, by the wording of s. 2 (4) (*b*) does not constitute a load) and the case was sent back to the magistrate who had stated it for reconsideration on the basis of the High Court's interpretation of the word "constructed."

Restoration of Driving Licence

In the *Quarterly News Letter* of the Pedestrians' Association, there appears a note on this subject which deserves publicity. The writer refers to a question asked by Lord Vansittart in the House of Lords as to the number of convicted motorists who, following disqualification, had their licences restored to them before the period of disqualification had expired. He received the reply that no such figures were available and that they could not be called for because of the labour involved. The writer in the *News Letter* makes the justifiable criticism that records could easily be kept and included in annual statistics. He goes on to say it is time the public did know of the extent to which these sweeping powers have been used, and he concludes: "It is time that the exercise of this strange power of reversing decisions deliberately arrived at was clearly realized by the public, and high time too, that it was entirely abolished."

As to abolition, that is a matter of opinion. There is, however, one other point which we should like to make. While it is proper that a driver subjected to disqualification should know of his right to apply for restoration, we deprecate any sort of intimation from the bench that such an application is likely to be successful. This looks too much like evading a statutory provision, where disqualification for twelve months must follow conviction in the absence of special circumstances. If the court cannot honestly find special circumstances, disqualification for

twelve months is what Parliament has prescribed, and formal compliance coupled with a half promise to shorten the period cannot be right. Moreover, s. 7 (3) of the Road Traffic Act, 1930, states plainly that the court which hears an application for the removal of a disqualification may exercise its discretion "having regard to the character of the person disqualified and his conduct subsequent to the conviction or order, the nature of the offence, and any other circumstances of the case." As his conduct since the date of conviction is one matter to be considered, it seems most undesirable to give any hint in advance that the disqualification will probably be removed after six months, and certainly in the case of compulsory disqualification the court hearing the application for removal ought to have strong reasons to justify such removal.

Problem Families

The Home Secretary in the House of Commons Debate on Child Care, which we referred to at p. 52 *ante*, strongly commended the Home for Problem Families (known as "The Mayflower" Home) which had been established by the Salvation Army at Plymouth, and expressed regret that it had not been fully used. We think magistrates, and particularly women magistrates, would therefore be interested in an account of the Home in the January issue of "The Good Neighbour." *

It is the first training centre in the country for mothers convicted of child neglect and the procedure for admission is that the court, with the consent of the mother, puts her on probation (generally for two years) and requires her to live at "The Mayflower" for the first four months. Before the court makes the order the probation officer consults the Salvation Army to make sure that the woman is suitable for admission. A weekly contribution is made from public funds towards the cost of the maintenance and training of each mother; otherwise the cost of running the Home is borne by the Salvation Army. Frequent inspections are made on behalf of the Home Office. Twenty-seven families have now passed through the Home. After they leave they still receive help and supervision from the probation officers and from Salvation Army Officers who have generally cleaned up the home in readiness for the mother's return, repairing and supplementing equipment so that she may have some encouragement to maintain the standard she has learned. Those in charge of after-care report on progress made by the family, but—and this appears even more significant—the mothers themselves and their husbands, also keep in touch. In the growing records of the "Mayflower" are letters from the mothers, their husbands, and also from outside observers, which amply testify to the success of the work.

Increased Value Payments

Readers whose work brings them in touch with the owners of war damaged property, particularly the smaller owners, should be aware of the scheme for special payments under s. 59 of the Town and Country Planning Act, 1947, which has just been issued by the Central Land Board. The scheme relates to certain land which qualified for value payment under the War Damage Act, 1943. Value payments, it will be remembered, were intended to compensate the owner of a building which had been so severely damaged that it could not be restored, as distinct from cost of works payments, which were appropriate where the building could be restored, and were designed to reimburse the owner for restoring it. At the time the Act of 1943 was passed, it was assumed that the owner would be able to redevelop his land or to sell it for redevelopment, and that in some cases its value would be greater because a building could be placed upon it or its use could be changed, so as to bring in more than was brought in by the building which had been destroyed. In exceptional cases it was found that an owner had actually benefited by the destruction of an old building on a valuable site: in a much larger number of cases he was entitled to some value payment, but the amount was reduced by taking probable redevelopment into consideration. The Town and Country Planning Act, 1947, changed the position by appropriating to the State the development value whilst, if permission under that Act for redevelopment is refused, the owner is not normally entitled to compensation. In this position the owner would have been hit both ways if nothing further had been done: he would have been deprived of part of his value payment (or exceptionally of the whole) because of what he was going to make on redevelopment, and would then have been prevented by the operation of the Act of 1947 from making anything out of redevelopment. Section 59 of that Act therefore provided various safeguards for increasing retrospectively certain value payments. The principle is plain enough: the details are complicated and are set out in Form S.I.A. issued by the Central Land Board on February 8, and should be carefully studied by those affected. A point which is of interest to the taxpayer is that the payments now to be made are additional to the £300 million set aside for compensation under s. 58 of the Act of 1947, of which we heard so much in 1948 and 1949. A point to be noted by property owners is that fees upon a scale set out in the present publication will be defrayed by the Central Land Board, if incurred for the purpose of making a claim, provided that the fees are due to a properly qualified surveyor, or other person with professional experience in valuing land. The Board reserve the right of not paying the fees where a landowner has received advice from a person whom they do not consider to have the requisite experience.

Domestic Help Service

The National Health Service Act, 1946, empowers a local health authority to make arrangements for providing domestic help for householders where such help is required owing to the presence of any person who is ill, lying-in, an expectant mother, mental defective, aged, or a child not over compulsory school age. While this power is permissive only, the Minister of Health has urged local authorities to give earnest consideration to the organization of such a service. The degree to which this power is being exercised varies throughout the country, but Kent appears to be one of the counties where its importance is fully recognized, is shown by the report of the County Medical Officer for the year 1948, which we received recently. This service is a continuation of the home help service previously administered as part of the Maternity and Child Welfare Service together with arrangements for the provision of domestic help introduced under Defence Regulations in 1944. On a survey of Kent, made in the summer of 1947, it was shown that there were, at that time, the equivalent of some 170 whole-time workers employed. Provision was made after July 5, 1948, for a fifty *per cent.* increase, representing approximately the equivalent of 250 whole-time workers. Two months after the Act came into force, however, the average number employed was the equivalent of some 450 whole-time workers, the total labour force being employed consisting of ninety whole-time workers and 584 part-time workers. This number continued to increase and by the end of the year had arisen to the equivalent of 620 whole-time workers. Later figures show that the total expenditure on this service was approximately £250,000 a year, representing

* The Good Neighbour, published bi-monthly by the National Council of Social Service. 26, Bedford Square, London, W.C.1. Price 1s.

the equivalent of some 850 whole-time workers. It is pointed out by the County Medical Officer that the difference in the position as revealed by the survey made in 1947, and the result of the first six months working of the Act, can be attributed to the greater availability of women for employment and the publicity which was given to the facilities available. The fact that the largest single group of persons helped—32.4 *per cent.*—came into the category " aged," shows that this service has been of inestimable value towards a group whose needs have, in the past, tended to be overlooked. We should be glad to learn of other areas where a similar degree of attention is being given to the provision of domestic help for the aged as in Kent.

Even although the cost of providing the domestic help service is considerable, we have no doubt that it sometimes prevents old persons having to seek admission to institutions or old people's homes, where the cost of their maintenance by the local authority would be very considerably higher. Quite apart from the matter of expense, it is generally recognized that everything possible should be done to enable an elderly person to continue to live as a member of the community. We accordingly welcome the increased powers in this respect which are given to housing authorities by the Housing Act, 1949, which, with a good domestic help service, shall make it still more possible for many people to remain in their own homes. There is no doubt however that many of these workers are required because of the difficulty of getting the chronic sick into hospital. Here again it is cheaper but often, we are afraid, not without very unfortunate results to the people themselves.

THE VEHICLES (EXCISE) ACT, 1949

The provision regulating the licensing and registration of mechanically propelled vehicles, with their numerous amendments, have been scattered through some twenty or more statutes from 1920 onwards. It is a great convenience that the relevant provisions have now been consolidated in one Act, the Vehicle (Excise) Act, 1949, which came into operation on January 1, 1950.

The different classes of vehicles for taxation purposes are dealt with in different sections, each with a schedule related to it as follows :

	Class of Vehicle	*Section*	*Schedule*
i.	Vehicles not exceeding 8*cwt.* unladen	2	1
ii.	Hackney carriages	3	2
iii.	Tractors and certain other agricultural and excavating vehicles	4	3
iv.	Goods vehicles	5	4
v.	Vehicles not dealt with in ss. 2 to 5	6	5

In construing these sections and schedules reference must be made to the interpretation section which is s. 27.

Section 7 sets out the vehicles (fire engines, ambulances, road rollers, etc.), which are not chargeable to duty. An exemption at present in season is dealt with in s. 7 (2) by which no duty is chargeable on a vehicle if it is used only for clearing snow from public roads by means of a snow plough or similar contrivance. Section 7 (4) allows a council (with the authorization of the Minister of Transport with Treasury consent) to exempt a vehicle from duty if they are satisfied that its use on public roads is to be confined to passing from one piece of land to another, both pieces being in the occupation of the applicant for the licence, and that the aggregate mileage on the road in any calendar week will not exceed six miles.

Sections 8 to 15 inclusive deal with the collection of duties on and the licensing of vehicles, the county councils (including the councils of county boroughs) being, as before, the responsible authorities with the same powers, duties, and liabilities in the matter of the collection of duty, as have the Commissioners of Customs and Excise on whose behalf they really are acting.

Trade licences, general and limited, are dealt with in s. 10. Section 11 deals with the licensing of vehicles for periods of less than one year, and s. 12 with the surrender of licences ; also refund of proportionate amounts of the duty paid, in cases where a vehicle is not to continue in use.

Section 13 is concerned with the procedure when any change is made during the period of currency of a licence, in the vehicle or its use, which affects the amount of duty payable. The section incorporates the penalty provision of £20 or three times the difference in the appropriate duties (whichever is the greater) if a vehicle is used in circumstances which require the payment of a higher rate of duty without that higher rate first being paid. There are important provisos in subs. (3) (4) and (5) dealing with certain cases where additional duty does not become payable. These cannot be summarized and considerations of space do not warrant their inclusion in full.

If less than the appropriate amount of duty is in fact paid the amount of the deficiency is a debt due to the council with which the vehicle is registered. This is provided by s. 14 which deals also with the time limits for the recovery of such debts and of any overpayments of duty which may have been made. There is no provision for such matters being dealt with summarily as civil debts.

Section 15 contains the old penalty clause for the offence of using an unlicensed vehicle, *i.e.*, whichever is the greater, £20 or three times the unpaid duty, and proceedings can be brought, as before, at any time within twelve months of the date of the offence. The section also reproduces the former provisions compelling owners of vehicles and other persons, when such offences are alleged, to give to the police or to a county council information which will enable the driver and any other user of the vehicle to be identified.

Sections 16 to 20, inclusive, contain the provisions as to registration and identity marks. By s. 19 penalties are provided for failing to fix the necessary marks and for allowing them, when fixed, to become obscured or not easily distinguishable. The maximum penalty is, for a first offence, £20, and for a second or subsequent offence, £50.

The remaining sections (21 to 31) are headed " miscellaneous and general " and include the penalty section (21) for forgery or fraudulent alteration, use, lending, or allowing the use of registration marks, hackney carriage signs, licences and registration books. The penalty, as before, is a maximum fine of £50 or six months' imprisonment without the option of a fine, which gives a defendant the right to claim trial by jury.

Section 22 continues the provisions as to the burden of proof lying on the defendant if certain matters are in dispute in proceedings under ss. 9 (1), 15 (1) and 16 (4). The first mentioned subsection continues the maximum penalty of £50 or six months' imprisonment for making statements, knowing them to be false, or materially misleading, in connexion with an application for a vehicle licence, again an offence for which a defendant may claim trial by jury. Section 16 (4) provides a similar maximum penalty for knowingly furnishing false or misleading particulars in connexion with a change of registration of a vehicle. Section 15 we have already dealt with. The matters in which, in case of

dispute, the burden of proof is to lie on the defendant are :

(*a*) The number of vehicles used.
(*b*) The character, weight, horse-power or cylinder capacity of any vehicle.
(*c*) The seating capacity of a vehicle.
(*d*) The purpose for which a vehicle has been used.

It would appear that, on the authority of *R.* v. *Carr-Briant* [1943] 2 All E.R. 156 ; 107 J.P. 167, the burden thus cast on the defendant is less than that normally falling on the prosecution of proving necessary facts beyond reasonable doubt and that the defendant would be entitled to succeed by establishing the probability of the matter he was called upon to prove.

By s. 25 the Minister of Transport is given power to make regulations for the purposes of the Act, and by s. 25 (4) failure to comply with any such regulation involves liability to a maximum penalty of £20. We notice that by s. 30 (2) every Order in Council, order or regulation made under any of the enactments repealed by the new Act is to continue effective as if made under the new Act, and it may well be that for the time being new regulations will not be found to be necessary. We have particularly in mind the Registration and Licensing Regulations of 1949, which came into operation as recently as October 1, 1949.

The Act extends to Scotland (with slight modifications as to the meaning of county, *see* s. 28) but not to Northern Ireland.

THE POLICE HORIZON

[CONTRIBUTED]

The Oaksey Report, Part II, has now passed through the stage of anticipation and presentation and is at the moment engaging the attention of thoughtful members of police authorities to await implementations. Summaries of these reports have appeared at 113 J.P.N. 312 and at p. 47 *ante*.

What amounts to a new charter has been created, its ramifications are extensive and relate to almost all aspects of the functions of the constabularies.

True, the past and the present have been scrupulously combed and analysed, but rather strangely, it seems, some practical appreciation of future needs has been altogether missed, as, for example, the "back room boys." Police ceaselessly engage in the war against crime, but unfortunately they must continue to do so almost wholly with the aid of their knowledge, experience, instinct and industry. They have no department or team of "boffins" or "back room boys," whose work it is to perceive the shape of things to come. Television, for example, has made enormous strides in recent years, and one conjectures the part it will play, or should play, in the war against crime. It may be asked, who is considering in a national sense the implications and possibilities of the burglar alarm systems? What part is the aeroplane to play, ten or twenty years hence, in the field of criminal investigation? Can means be devised to give greater security to valuables and buildings which house them to prevent motor vehicles being stolen, stores and stocks being fired, and a hundred other offences which readily spring to mind? It cannot be emphasized too often or too much that prevention is a thousand times better than cure, and that scientific development is not being fully utilized to this end.

The police system in this country has only been in existence about 120 years, perhaps a brief enough period in the life of a nation. But while the pressure of constabulary duties steadily and permanently builds up, current problems require that little thought can normally be spared to conjure up the image of the future. No one would contend that industry would not survive in a keenly competitive world unless some part of its organization was concerned with planning for the future, and the need is no less important with the police. At present there is no precise means of measuring police efficiency.

As to the form this planning for the future should take, new vistas, for example, are opened up by the possibilities of television, already widely used in industry. Instantaneous reproductions are capable of transmission by the screen of the apparatus. Documents, portraits, scenes, exhibits and a host of other matters necessary in the course of investigation work could be dealt with in this way. Even burglar alarms under expert treatment may conceivably incorporate the technique of the television screen in due time, although such a development could not be anticipated for many years in the absence of police participation in the field of research. Likewise aircraft, for the industrial world has been swift to seize upon the advantages of speed in transport, but it is costly, which may be the main reason why the police are, on the whole, not attracted.

The motor car became part of the police machine after World War I ; yet it was not until the early 1930's that its use became general. Even today the vehicles used are of the standard type. No special feature, design or attachments are aimed at or supplied. Experimental research might produce a prototype embodying all the requirements ; motor cars for patrol, fast vehicles, lorries, motor cycles, mobile police stations, exhibition vehicles and so on. These could be available not to one force exclusively, but in numbers and at locations freely accessible to every force.

The field of atomic research creates even greater possibilities. Scientists from the atomic energy research establishment at Harwell, Berkshire, have shown to the staff of Home Office Forensic Science Laboratories their work in relation to crime investigation. A plank was treated with paint made up of a radioactive compound of sodium. During the experiment a man, acting the part of a thief, and wearing rubber boots, walked along the plank and then away into an adjoining field. There he removed the rubber boots and hid them in some bushes. The scientists then, acting as detectives and carrying a Geiger counter, an instrument somewhat resembling a vacuum cleaner, which is sensitive to emanations from radio active substances, moved into action to pick up the trail. The instrument located the track and within a short time led the men to the bushes and the boots. One must realize that this was merely an experiment which has not yet been tried out in practice, but obviously the possibilities are great indeed.

The singular feature about this is that it should fall to the lot of atomic scientists to dabble in crime prevention, rather than the experts of a police research department, which does not at the moment exist.

Who should staff a police experimental research department if such were created? Experts, of course, but practical policemen must also be included. The policeman knows the criminal, he knows how they seek to cover their tracks ; how they react to approach and questioning. He knows the strength of the police machine and above all he has discerned its weaknesses. Only a team of men whose duties are solely to scan continuously the police horizon can repeatedly repair the breaches in the walls.

J.D.

MANPOWER AND MONEY

One of the few things on which political parties agree is the proposition that manpower employed in the local government service is excessive, is increasing and ought to be diminished. It caused no surprise therefore when in January, 1947, the Ministry of Health issued a circular exhorting all local authorities to review their establishments and make "the fullest practicable reductions in the numbers employed."

Last week we summarized the report of the Local Government Manpower Committee set up following the issue of this circular; and this week we propose to deal with its financial implications, as enumerated in the report of its Grant Claims and Loan Sanction Procedure Sub-Committee. The amount of grant aid to local authorities is a vital factor in local authority finance—in many cases the dominant factor—and the amount of administrative work involved in preparing grant claims and in checking them is immense. Loan moneys are also being required in considerable amount. The wide interest of the subject matter and the particular importance of the conclusions of this sub-committee have led us to believe that some observations on their report will be of interest.

The first part of the report deals with the administration of grants. Here, local government administrators will gratefully conclude that although it remains to be proved that the proposals made will lead to manpower diminution, it is tolerably certain that there will be a cash accretion to the local authorities as a result of the new rules defining grant earning expenditure. The report agrees what local authorities have long contended, namely, that every grant aided service should bear a properly calculated proportion of the cost of salaries of administrative technical and clerical staffs, office expenses and upkeep of premises, and that such charges should rank for grant. Up to the present there has been a wide variety of practice between departments and in some cases between different services controlled by a single department. A few examples of these odd differences are given below:—

1. *Ministry of Health—Local Health Services.*
   Only such "additional" administrative expenses will be accepted for grant as would not otherwise have been incurred had the local authority not been invested with the powers and duties of a local health authority.
2. *Ministry of Education.*
   A proper apportionment of administration charges (including salaries of chief officers and their deputies) is accepted.
3. *Home Office.*
   (*a*) Police—no central administration expenses accepted for grant.
   (*b*) Fire—ditto.
   (*c*) Children—position not yet determined.
   (*d*) Civil Defence—a proper allocation of expenses (excluding salaries of chief officers and their deputies) is presumably still acceptable.

In the past representations that such a state of affairs should be tidied up have failed to move what are, in local authority eyes, the offending departments. Where individual representation has failed the committee has now succeeded. It has succeeded not only in making a point but in securing co-ordinated consideration of these problems between all departments concerned—a feat which many able and experienced local authority advisers had been driven to conclude was totally impossible. Co-ordination in local government is more highly developed than in many aspects of the work of the central government departments and if the Manpower Committee can leave the departments possessed by a determination to remedy their shortcomings in this direction, it will indeed have achieved a remarkable result.

In addition to this major change the sub-committee, after clearly setting out their aims, recommend that a set of general rules should be circulated to the government departments concerned with grant aided services laying down the standard conditions of grant payment and procedures which should normally be adopted. The following paragraph is a summary of these rules:—

1. All statements of claim to be prepared on an income and expenditure basis. Expenditure to be as defined in the Borough Accounts Order, 1930, and to cover contributions to internal funds.

2. Statements of claim to be accompanied by replies to a questionnaire showing adjustments converting total expenditure into grant earning expenditure and an assurance that conditions of financial administrative control have been complied with, *e.g.*, whether any payments have been made in excess of Burnham scales.

3. Apart from cases where there is a statutory form of account (*e.g.*, education and housing) statements of claim should have the following headings:—

Expenditure—
- (*a*) Salaries, wages, etc. of persons forming part of the service;
- (*b*) Loan charges;
- (*c*) Upkeep of premises;
- (*d*) Operational equipment and plant;
- (*e*) Institutional costs;
- (*f*) Administration, divided between direct and apportioned charges;
- (*g*) Capital expenditure out of revenue.

Income—
- Rents;
- Interest on investments;
- Fees;
- Other.

Loan and capital statements (when required)—
To follow same form as in Epitome of Accounts.

4. Estimates should link up with statements of final account.

5. Admissibility of charges for grant. Salaries, wages and superannuation charges of full time staff will be allowed, as will an apportionment of administrative, technical and clerical salaries (excluding chief officers and deputies) and office expenses.

An apportionment of total outgoings in respect of property used for administrative purposes can be charged.

Either rents or loan charges will be allowed in respect of property used for operational purposes.

In the words of the report it is intended to "extend to grant-aided services generally the conditions of grant and procedures for grant claim and payment which are at present (and have for many years been) applied in the case of the main education grant. The chief characteristic of this system is that grant is calculated by the department on the basis of a copy, certified by the district auditor, of the local authority's own account, which is supported by replies to a questionnaire from which the department obtains information or assurances on particular points affecting the financial conditions of grant. By eliminating the preparation by local authorities of special accounts for grant claim purposes, and the need for a variety of separate certificates to cover specific points, this system has been found to be economical of labour in local authorities and government departments equally. There appears to be no reason why it should not be given general application with equal success." It is appropriate that teaching is done by the Ministry of Education.

The second part of the report deals with loan sanction procedure and, after noting that arrangements have been made for discussions to take place on future policy with regard to the Local Authorities Loans Act, 1945, goes on to define the view of the sub-committee, which will command wide agreement, that "control over the raising of loans should be regarded primarily as a means of ensuring that local authorities both individually and collectively adopt a sound and proper policy with regard to incurring future liabilities for present capital development. We consider that it is undesirable in principle and likely to be wasteful of administrative effort that the loan sanctioning procedure should be regarded as a secondary means or complementary method of central control." In the light of this principle the sub-committee make three main recommendations.

The first one relates to grant aided services where an annual programme of capital expenditure is approved by the department concerned. Instead of individual applications for loan sanction for each separate item in the programme the proposal is that there should be one block sanction (or three at the most, where varying loan periods are involved) to cover the complete programme. As some authorities submit up to 200 individual applications each year, it is the opinion of the sub-committee that a manpower saving, both in central and local departments, should follow the adoption of this recommendation. Some snags will become evident, such as the carry over of unexecuted works from one year to the next, and the necessity to obtain separately Treasury consent to borrow and approval for loans to be borrowed from the Public Works Loan Board, but the sub-committee feel that a simple and expeditious procedure can be devised to overcome such difficulties. The second recommendation is that approval of a capital project by the department concerned should carry with it a guarantee of loan sanction from the Ministry of Health. This is another useful piece of co-ordination, extending to all departments the procedure already in being in some, for example, education and highways. Lastly, the giving of block sanctions is recommended for a wide range of projects on non-grant aided services where up to the present no annual capital programmes have been submitted. The Ministry of Health has undertaken to examine this proposal sympathetically.

The main committee add two comments. In the first they agree that the chief financial officer is the most appropriate person to sign statements of claim for grant on behalf of a local authority. Although to the unbiased mind this proposition might appear elementary and indeed, self-evident, it has not been possible previously to secure general agreement by the departments. In the second comment the main committee refer to review by the chief financial officer of contract settlements. The departmental representatives on the sub-committee had expressed the view that the chief financial officer should as a regular practice be given the opportunity to review contract settlements. While feeling that this is a matter for each local authority to decide, the committee commend the suggested procedure to all authorities, adding "we feel in particular that it is undesirable that a local authority should take formal steps which would deny its chief financial officer the opportunity to comment on contract settlements at some stage."

Some agreed changes have already been brought into operation, but in the main, owing to the concerted revision required, some little delay is unavoidable in making all the recommendations operative. The committee aim at 1950/51. Local treasurers, no doubt, will now make an immediate review of their allocations of central charges. In the accounts of many authorities scientifically allocated charges already appear: in the remainder a review of apportionments will be required. Having made the review treasurers can then see how grants are affected. Making due allowance for the exclusion of the salaries of heads and deputies of the central departments local authorities in general will find themselves possessed of an unexpected windfall.

THE WELFARE OF OLD PEOPLE

By JOHN MOSS, C.B.E.

The Ministry of Health in a circular issued to all local authorities, dated January 23, 1950, has made various suggestions for developing better collaboration between local authorities and local voluntary organizations in promoting the welfare of old people. It is pointed out that although the great majority of old people do not wish to go into old people's homes and prefer to live ordinary lives in their own homes—many cannot do so in reasonable comfort without help and interest from outside.

Reference is then made to s. 31 of the National Assistance Act, 1948, which enables every local authority to contribute to the funds of voluntary organizations providing mobile meals services and social and recreational clubs. There are now at least 2,000 old people's clubs in all parts of the country. Most of them are only open on one or two days each week, but there is an increasing number of whole-time clubs. Financial assistance in the establishment of such a club is sometimes available from the National Corporation for the Care of Old People. Grants towards equipment can also be obtained from the National Old People's Welfare Committee. In many instances, local authorities are already giving financial assistance towards the establishment and running of such clubs and in this respect it is important to remember that in an administrative county the county district councils have parallel powers with the county council. In some counties, schemes have been worked out under which grants from the local authorities may thus be given.

The movement for the establishment of clubs of this type is spreading rapidly also in the United States of America. When I was in New York last year, I visited some clubs, or community centres as they are called, which are administered by the New York City Council. In Great Britain, on the other hand, the local authorities cannot do this, but can only assist in their establishment by a voluntary organization. Great importance is attached in New York in the provision of interesting occupations as well as opportunities of social intercourse for members of the clubs. One of the important aims is to preserve the personality of the older person. At each of the New York centres there is a whole-time supervisory staff of trained social workers, and part-time paid instructors, but there is also a good deal of voluntary help. When some people first came to the centre, they had difficulty in forming social relationships, but when put at ease they showed a tremendous change and remarkable improvement. Those responsible for the centre believe that recreation is as important to the older people as the younger people. At the centre I visited the following activities were provided:—

1. A poetry and elocution class (one member had gained public recognition as a fluent speaker).
2. The teaching of English for the foreign-born.

3. Dramatics.
4. Literary activities (the members run their own magazine).
5. Carpentry and woodwork.
6. Metal work.
7. Jewellery making.
8. Painting (one member discovered a latent capacity for painting and has since had an exhibition in New York).
9. Leather work and shoe repairing (members repair their own shoes or those of other members).
10. Needlework (members can bring their own mending and needlework).
11. Playing cards and other games (members are, however, discouraged from doing this continually).
12. Social intercourse.

There are also the following programmes connected with the centre :—

1. A foster-grandparents' scheme under which people are asked to take one or two old people in their homes as lodgers.
2. A medical scheme under which doctors and nurses may be provided.
3. Home visiting.

As showing the part taken by the centre in preventing old people becoming a charge on the community, I was told that since it was established six years ago none of the 600 members had been admitted to a mental institution and only ten had gone into any form of old people's home or institution. Elementary occupations are also encouraged at some of the clubs in Great Britain, and one or two experiments are being tried to see whether it is worth while for a social worker to be attached to a group of clubs.

When I visited many parts of Canada, I found interest also awakening there in the same subjects. There, as in New York, it was considered necessary that there should be a trained social worker attached to each club. This is not, perhaps, surprising in view of the importance attached generally to the employment of trained social workers in all parts of the North American continent. I am sure that in Great Britain there is scope for much greater use of trained social workers in many forms of social work, including that amongst the aged.

VOLUNTARY SERVICE

The Ministry of Health has pointed out further in its circular that the experience gained since the National Assistance Act came into operation has shown an urgent need for further services of the more personal kind which are not covered by existing statutory provisions and which indeed can probably best be done by voluntary workers actuated by a spirit of good neighbourliness. These services include the regular visiting of the old people in their homes, and helping them with their shopping, in obtaining magazines and books from local libraries, with letter writing, with mending, and generally solving domestic difficulties. If the right person visits in the right way a real service can be performed and a mutual friendship made. The visitor need not necessarily be a middle aged or elderly person himself, or herself, as youth organizations, such as the Junior Red Cross Society and the Women's Junior Air Corps can sometimes provide recruits. Young women are, however, generally more suitable for visiting old people in Homes and hospitals than when they are living alone.

The poor-law system was frequently criticized, sometimes rightly, but more often wrongly, but it is generally recognized that many old people felt the lack of the help of the relieving officer who undertook a good deal of kindly welfare work besides carrying out his statutory duties. Now, with the division of functional bodies and the setting up of different departments by the local authorities themselves, there is a serious risk that old people may "fall between two stools" and not receive the benefit of some of the services which should be available under the various insurance, health and welfare schemes. This is recognized by the Ministry of Health when it suggests that there should be a two-flow of information between officials and voluntary bodies. It is thought that in counties and county boroughs this knowledge could with advantage be canalized to the welfare department and thence to the local voluntary organizations, where appropriate. In county districts it might be passed on to the county welfare department or, as appropriate, to a local voluntary organization. If voluntary workers also passed on to the local authority concerned particulars of old people seeming to need the aid of some local authority service, and arrangements are made to bring to the notice of the general practitioner those apparently needing medical care, the exchange of information designed to secure action for the benefit of the old people should be complete.

In many parts of the country statutory and voluntary agencies are already working together along these lines ; in particular, fruitful co-operation has been established between the local health and welfare authority and the county or local voluntary old people's welfare committees. The Ministry of Health believes, however, that there is room for further development in these directions. During the past year new old people's welfare committees have been formed on an average of more than one a week. There are now some twelve regional committees, twenty-six county committees and 378 local committees in Great Britain and Northern Ireland. Many clubs and meals services and much personal visiting of lonely old people have come into being as the result of their work. The Ministry has suggested, therefore, that local authorities should help towards the setting up of such committees where they no longer exist.

Finally, in the circular the Ministry draws attention to s. 40 of the Housing Act, 1949, and to the paragraph entitled Exchequer Contributions to Hostels in circular 90/49 issued to housing authorities on September 15, 1949. This paragraph stresses the desirability of consultation—in order to avoid overlapping of effort—between welfare and housing authorities on the amount and form of hostel accommodation to be provided for old people.

NEW COMMISSIONS

DOVER BOROUGH

Mrs. Annie Cowell Booth, 2, Beaconsfield Avenue, Dover.
Mrs. Marjorie Esther Crick, 199, Folkestone Road, Dover.

KEIGHLEY BOROUGH

Arthur Bailey, Wayside, 190, Long Lee Lane, Keighley, Yorks.
Harold Percy Clough, Windygarth, High Spring Gardens Lane, Keighley.
David Clifford Hudson, Cragneath, 67, Glen Lee, Keighley.
Frank Jeffrey, 31, Manville Walk, Keighley.
James Torquil Macleod, Thornleigh, Keighley.
Mrs. Pamela Constance Marriner, The Mundens, Keighley.
George Samuel Mason, 25, Devonshire Street, Keighley.
George Henry Norton, 15, Regent Street, Haworth, Keighley.
John Prentice, Malsis Mount, Malsis Road, Keighley.
Mrs. Elizabeth Smith, East Bank, High Spring Gardens, Keighley.
Miss Winifred Annie Stell, Herncliffe, Keighley.
John Aked Taylor, Ryburn, View Road, Keighley.

LOWESTOFT BOROUGH

George Victor Nudd Chadd, Four Stones, Corton, Suffolk.
Mrs. Edith Marian Walker, Overdene, 10, Gunton Cliff, Lowestoft.
John William Woodrow, 2/3, Marine Parade, Lowestoft.

NEWCASTLE-UNDER-LYME

William Ernest Mayatt, 10, Rudyard Grove, May Bank, Newcastle, Staffs.

WEEKLY NOTES OF CASES

COURT OF APPEAL

(Before Sir Raymond Evershed, M.R., Somervell and Jenkins, L.JJ.)

Re McGREAVY, *Ex parte* McGREAVEY *v.* BENFLEET URBAN DISTRICT COUNCIL AND ANOTHER

January 19, 20, February 9, 1950

Bankruptcy—"Debt"—Arrears of rates—Arrears as basis for petition—Bankruptcy Act, 1914 (4 & 5 *Geo. 5, c. 59*), *s. 4 (1) (b).*

APPEAL by the debtor, M, against a decision of the Divisional Court in Bankruptcy (114 J.P. 62) dismissing his appeal against a receiving order made by the registrar of the Southend County Court on September 28, 1949.

The debtor, M, and R, who carried on business as partners, were indebted to the respondent council as rating authority for some £4,400 for general rates. An act of bankruptcy having been committed by M and R assigning their property to a trustee, to which the council did not assent, the council presented a petition against M and a receiving order was made. M contended that the rating authority to whom rates were due was not a creditor who could petition within the meaning of s. 4 (1) (*b*) of the Bankruptcy Act, 1914, which provides: "A creditor shall not be entitled to present a bankruptcy petition against a debtor unless . . . (*b*) the debt is a liquidated sum, payable either immediately or at some certain future time . . ." It was argued that no petition based on a debt for rates was to be found in the bankruptcy records, and that such a debt was not a "debt" on which a bankruptcy petition could be founded.

Held, there was no ground for construing the word "debt" in s. 4 (1) as referring only to debts in the pleading or procedural sense; the council was a creditor within the subsection; and the unpaid rates were a "debt" within its meaning.

Appeal dismissed.

Counsel: *Aronson, K.C.*, and *Muir Hunter* for the debtor; *Christie, K.C.*, and *Caplan* for the rating authority; *C. W. Chandler* for the Official Receiver and trustee in bankruptcy.

Solicitors: *Percy Haseldine & Co.*; *Zefferti, Heard & Morley Lawson*, for *Heard & Coleman*, Hadleigh; *Solicitor to the Board of Trade.*

(Reported by F. Guttman, Esq., Barrister-at-Law.)

COURT OF CRIMINAL APPEAL

(Before Lord Goddard, C.J., Byrne and Morris, JJ.)

R. *v.* REYNOLDS

January 23, 1950

Criminal Law—Evidence—Child—Fitness to be sworn—Witness called to speak of child's capacity—Evidence given in absence of jury.

APPEAL against conviction.

The appellant was convicted at Hertfordshire Quarter Sessions of an indecent assault on a girl aged eleven. After the chairman had asked the girl a number of questions to enable him to decide whether or not she ought to be sworn, he asked the jury to retire, and in their absence a school attendance officer, who knew the child and the school for mentally retarded children to which she had been sent, was called, gave evidence about the child's capacity, and was cross-examined. The chairman then ruled that the child was fit to be sworn. The jury were then recalled into court and the child gave her evidence on oath.

Held, that, apart from evidence on the question whether an alleged confession is admissible, evidence in a criminal trial must be given in the presence of the jury, and the reception of evidence in the absence of the jury from a witness who had been called to inform the court whether or not the child was fit to give evidence was an irregularity which necessitated the quashing of the conviction.

Counsel: *Rees-Davies* for the appellant; *Pennotti* for the Crown.

Solicitors: *Cartwright, Cunningham & Co.*; *Hartley & Hine*, Hitchin.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

(Before Humphreys, Hilbery and Sellers, JJ.)

R. *v.* CLARKE

February 6, 13, 1950

Criminal Law—Suspected person—Previous conviction—Not known to arresting officer—Vagrancy Act, 1824 (5 *Geo. 4, c. 83*), *s. 4—Prevention of Crimes Act*, 1871 (34 & 35 *Vict., c. 112*), *s. 15.*

APPEAL against conviction.

The appellant was convicted at Middlesex Sessions, under s. 23 (2) of the Firearms Act, 1937, of having in his possession an imitation firearm when committing an offence referred to in sch. III to the Act, namely, being a suspected person loitering in a street with intent to commit a felony, contrary to s. 4 of the Vagrancy Act, 1824. He was sentenced to three years' corrective training. At about 2 *a.m.* on November 6, 1949, two police officers saw the appellant in the Great West Road, London, and kept him under observation for some twenty minutes while he was loitering in various streets. At the trial evidence was given of two previous convictions of the appellant, which were unknown to the police officers who watched him on the occasion in question.

Held, that there was nothing in the Vagrancy Act or in any of the authorities to support the proposition that the previous convictions of the arrested person must be known to the arresting officers for the purpose of proving that, as a result of those convictions, he became a suspected person. As knowledge of the previous convictions on the part of the police was not required, the appeal must be dismissed.

Counsel: *Cecil Havers, K.C.*, and *Michael Havers* for the appellant; *Griffith-Jones* for the Crown.

Solicitors: *The Registrar, Court of Criminal Appeal*; *The Solicitor, Metropolitan Police.*

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

REVIEWS

Tristram and Coote's Probate Practice. Second (Cumulative) Supplement to Nineteenth Edition. By H. A. Darling and G. M. Green. London: Butterworth & Co. (Publishers) Ltd. 1949. Price: 6s. net.

Tristram and Coote is, we suppose, now recognized as the standard work on this very important side of the practice of the average solicitor. The present supplement brings the main work up to date as at August 31, 1949; the main work and the supplement are obtainable together for £4 net. It thus includes all cases decided before the last long vacation, with the relevant provisions of the Finance Acts, 1946 to 1949, and the Non-Contentious Probate Rules, 1949. The care and completeness with which the supplement has been compiled can be seen by reference, for instance, to the proper description of Southern Ireland in documents arising out of probate business (which depends upon a direction of the Registrar pursuant to the Ireland Act, 1949) and to the means of bringing the Channel Islands law before the Court, or receiving a notary's certified copy of a will written abroad. Probate practice involves a great deal of very detailed matter of this sort, which is certain to be unfamiliar to executors, and may easily be forgotten by the legal practitioner, with consequent delay and irritation to the client. And, of course, the statute law, while fundamentally not difficult, is always liable to change in such matters as estate duty. The particular value of such a work as *Tristram and Coote*, completed as it is by its cumulative supplements, is that any point of practice as well as of law can be quickly picked up in the appropriate place.

Compulsory Purchase of Land. By A. J. W. Jeffery. Leigh-on-Sea: Thames Bank Publishing Company, Ltd. Price 15s.

This is a small book by the clerk of the urban district council of Wolverton, but will, we think, within the limits the author has set himself, be useful in the offices of other local authorities and those of solicitors acting for private owners. It obviously does not attempt to compete, in its fifty pages of text followed by extracts from the statutes, with the major works but, as a guide to the statutes including the appropriate provisions of the Town and Country Planning Act, 1947, we think it is well conceived and likely to be useful. The steps in a compulsory purchase are set out in the order in which the local authority will have to take them, but with fresh references in footnotes to the statutes and decided cases. These are followed by some forms and precedents, upon each of which it is indicated whether it is taken from any statutory rules and orders or statutory instruments or from official sources, and these again are followed by extracts from the Acts, of which the Acquisition of Land (Authorization Procedure) Act, 1946, and the Town and Country Planning Act, 1947, are now the most recent, each of them making important alterations in the previous procedure. We should have liked a little more than the book gives at pp. 33 and 55 about the vendor's costs, a subject on which we fairly often receive queries, and one which the index to the present work does not mention, but otherwise we have no adverse comment to make, and feel justified in recommending the book for the handy guide which, we take it, is all it sets out to be.

RENT TRIBUNAL CASES

SECTION 11—EXTENSION PERIOD GRANTED

On January 2, the North West Kent Rent Tribunal heard an application under s. 11 of the 1949 Act, which had been made by the lessee of a furnished flat.

The notice to quit, which was the subject of the application, had been served by the lessor upon the lessee on October 29, 1949 to expire on December 9, 1949. On November 18, 1949, the lessee referred his contract of letting to the tribunal under the 1946 Act, for the first time, and which was heard on December 6, 1949. On December 3, 1949, the lessee made application under s. 11 of the 1949 Act to extend the period of the notice to quit.

At the hearing of the contract of letting, the tribunal indicated that a period of "nil months" would be substituted for the maximum period of security of tenancy, due to the notice to quit having been served before the reference was made to the tribunal. At the hearing of the application under s. 11 of the 1949 Act, the lessor was represented by Mr. T. H. Church, solicitor, of Church, Bruce & Co., Gravesend, who stated that his client desired to sell the business beneath the flat and wanted to be able to offer vacant possession of the flat above, now occupied by the lessee, to a prospective purchaser. He further stated that, if the tribunal made a direction in favour of the lessee, his client would experience considerable difficulty in having to carry on the business because she had moved out of the district altogether.

The lessee stated that he had made every endeavour to obtain other accommodation, but with no success.

The chairman, Mr. Frankel, upon announcing the tribunal's decision to extend the period at the end of which the notice takes effect by three months, stated that in the opinion of the tribunal, the greater hardship would be suffered by the lessee if the tribunal failed to grant such a direction, and that the lessor would not suffer any hardship by reason of the tribunal directing that the period of extension be granted.

SECURITY OF TENURE AFTER NOTICE TO QUIT

On November 21, 1949, the lessee of a furnished flat made a reference to the Islington and District Rent Tribunal under the 1946 Act, which had been let to her at a rental of £5 5*s.* per week. Before making the reference the lessee had on November 17 received notice to quit, such notice expiring on December 31, 1949. On December 5, the lessee made a further application to the tribunal under s. 11 of the 1949 Act for an extension of the period within which the said notice to quit should not take effect.

The reference under the 1946 Act and the application under s. 11 of the 1949 Act were heard together on December 19 and in giving the majority decision of the tribunal, the chairman, Mr. Harry Samuels, Barrister-at-law, said that the Landlord and Tenant (Rent Control) Act, 1949, had changed a tenant's rights of security of tenure and in his view allowed a rent tribunal to grant the extension for which application had been made in this case. Under the 1946 Act, a tenant of furnished accommodation could get up to three months' security of tenure, but not if he had already been given notice to quit before he applied to a rent tribunal. Section 11 of the 1949 Act provided that:—

"Where a contract to which the Act of 1946 applies has been referred to a tribunal under that Act, and the reference has not been withdrawn, the lessee may, at any time when a notice to quit has been served and the period at the end of which the notice takes effect (whether by virtue of the contract, of the Act of 1946 or of this section) has not expired, apply to the tribunal for an extension of that period." This section did not make the lessee's rights as to security of tenure conditional on there having been no notice to quit given before the reference to the tribunal. Each of the conditions set out in that section was satisfied in this case, and the tribunal therefore had authority to extend the period within which the notice to quit should not take effect. A period of three months' security of tenure less two days was granted. On the reference under the 1946 Act, the rent was reduced from £5 5*s.* to £4 7*s.* per week.

Mr. C. Hackforth-Jones, Barrister-at-law, a member of the tribunal, said that he did not agree as to the application of s. 11 of the 1949 Act, to such a case as this.

CONDITION OF TENANCY

On January 12, 1950, the Islington and District Rent Tribunal heard an application under s. 1 of the 1949 Act to fix the reasonable rent for four rooms for which was paid a weekly rent of £2 2*s.* The lessee also asked for a certificate that he had paid to the lessor as a condition of tenancy a premium of £125.

The lessee was represented on the hearing by Mr. Earle (of Bishop & Cooke, solicitors) and the lessor by Mr. P. Elman, Barrister-at-law (instructed by Israel Joslin & Co., solicitors).

The lessee's wife said that she went to a firm of estate agents, and was told that there was a flat but that the lessor thereof required £150 key money. She and her husband thereupon met the lessor and his wife and agreed to pay £125. Her husband paid £25 in cash and at a subsequent meeting £100 in cash. In cross examination she denied that a sum of £50 only was mentioned, and that it was afterwards agreed that £25 should be paid for stair-carpet and other fittings. She said that the lessor called upon her and gave her a reminder about the balance of £100.

The lessee said that he moved into the premises in May, at the same time as the lessor who had then just purchased the property. The £125 was all paid in one pound notes and no receipt was given. Cross examined, the lessee said that when he moved into the premises there were no electrical fittings, the premises were wired but he had to buy bulbs, etc., and incurred an electrician's bill of £13. He denied that the sum of £25 was paid to the lessor for fittings, stair-carpet and other fittings.

In evidence, the lessor said he instructed his agents to let the flat and told them that he wanted £50 for fittings and £2 2*s.* 6*d.* per week rent. When the lessee and his wife came to see him they said £50 was too much and he agreed to accept £25. They did not pay him anything then but a few weeks afterwards paid him £25 in cash. He did not give a receipt. Neither he nor his wife had received any more money. He gave the agents particulars of the fittings and denied that he called on the wife of the lessee to ask about the £100.

In answer to the chairman of the tribunal, Mr. Harry Samuels, Barrister-at-law, the lessor said the £50 included stair-carpet covering about ten steps, and some electrical fittings. He had no idea of the value of the stair-carpet; the electric fittings consisted of four holders worth about 15*s.* The plugs were there when he moved in. In answer to the chairman, he admitted that £45 of the £50 was a premium, and that the value of the fittings was only about £5.

In giving the tribunal's decision approving the existing rent, the chairman said that with regard to the premium the evidence had taken the usual pattern of a payment in cash with no receipt given, the lessee saying he had paid a large amount and the lessor denying that he had received it. In this case the lessor had admitted receiving £25, which he said was payment for some stair-carpet and certain fittings. He had agreed that the amount he had instructed the estate agents to ask for was not the real value of the articles, which he now said was £5, and the balance was what was ordinarily regarded as a premium. The lessor had brought no corroborative evidence, whereas the tenant's wife had emphatically confirmed her husband's evidence. The tribunal were satisfied that £125 had been paid as a premium and certified to that effect. The rental equivalent of the premium would be 6*s.* 10*d.* per week.

In answer to Mr. Elman (for the lessor) the chairman said the tribunal regarded the whole of the £125 as a premium. It did not accept the evidence that there had been any bargain to let the tenant have the fittings or the stair-carpet.

PERSONALIA

APPOINTMENTS

Mr. Neville Granger Herford Atkinson, registrar of the Salford and Oldham county courts and district registrar of the High Court of Justice in Oldham, has been appointed in addition registrar of Warrington county court. He has been released from the registrarship of the Oldham county court.

Mr. Douglas Harold Nield, registrar of the Birkenhead and Chester county courts, and district registrar of the High Court in Birkenhead and Chester, has been appointed in addition registrar of Runcorn county court in place of Colonel T. Ridgway.

Mr. John Purcell Peacock, registrar of the Stockport, Ashton-under-Lyne and Stalybridge, Glossop and Hyde county courts and district registrar in the Stockport registry, has been appointed in addition registrar of Oldham county court and district registrar of the High Court in Oldham.

Mr. Roy Alistair Maclaren has been appointed assistant solicitor to the borough of Maidenhead. Mr. Maclaren is twenty-five years of age and has served with the Stokesley rural district council and the Middlesbrough county borough council. He was articled to Mr. Bernard Wilkinson of the Town Hall, Guisborough, Yorks, and was admitted in January of this year. During the war he served in the army and was demobilized with the rank of major.

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 15.

TOWN AND COUNTRY PLANNING ACT, 1947—FAILURE TO COMPLY WITH ENFORCEMENT NOTICE

A member of the Gower Council appeared at Gowerton Magistrates' Court early in January last charged with failing to comply with the requirements of an Enforcement Notice contrary to ss. 23 and 24 of the Town and Country Planning Act, 1947.

For the prosecution, evidence was given that the defendant had erected a kitchen and bathroom at the rear of his house without first obtaining the consent of the local planning authority, the Gower Council. An Enforcement Notice dated October 21, 1949, was served on the defendant requiring him to take down and remove the kitchen and bathroom and the defendant had failed to comply with such notice. The defendant contended that the building was not a new one and the case was adjourned for three weeks in order that a plan of the house could be prepared and investigation made as to whether or not the back wall of the house was new.

At the adjourned hearing on February 1, it was stated on behalf of the prosecution that the council's engineer had visited the premises and asked the defendant for permission to take a sample of the wall for analysis at the Building Materials Research Laboratories, but the defendant had refused permission. The defendant stated that he had erected the wall about twenty-five years ago.

The justices decided to convict, and imposed a fine of £5, and the chairman reminded the defendant that he was liable to a penalty of £20 every day that he failed to comply with the order unless he could come to an amicable agreement with the council.

COMMENT

It will be recalled that s. 23 (1) and (2) of the Act provide that where it appears to a local planning authority that any development of land has been carried out after the appointed day (July 1, 1948) without permission, they may, within four years of such development being carried out, serve an enforcement notice upon the owner and occupier of the land specifying the development complained of and requiring such steps as may be specified in the notice to be taken within a specified time to restore the land to its condition before development took place.

A defendant has the right under s. 23 (3) to apply to the local planning authority for permission to retain the buildings or works complained of or under s. 23 (4) to appeal against the Enforcement Notice to a court of summary jurisdiction and under s. 23 (5) there is provision for a further appeal to quarter sessions.

Section 24 provides that contravention of an Enforcement Notice may be punished on summary conviction by a fine of £50, and there is provision for a continuing offence to be punished by a fine of £20 per day.

(The writer is indebted to Mr. Edward Harris, clerk to the justices for the petty sessional divisional court of the Hundred of Swansea, for information in regard to this case.)

R.L.H.

No. 16.

A FLAGRANT OFFENDER AND HIS PUNISHMENT

Proceedings were instituted in July, 1949, by Leatherhead Urban District Council against a local builder for an alleged infringement of reg. 56A of the Defence (General) Regulations, 1939. At the subsequent hearing in the local magistrates' court, the defendant was charged with building a semi-bungalow without a licence contrary to the regulation.

For the prosecution, it was stated that the defendant sold his own perfectly good house in 1948 for £3,000. He then proceeded to build the semi-bungalow without obtaining a licence and continued to do so, despite repeated warnings, even after the commencement of court proceedings, and up to the date of the hearing and the cost of the work carried out to such date was approximately £960.

The defendant, who pleaded guilty, stressed that he was building the house for his own occupation.

For the council, it was emphasized that this was a flagrant contravention of the regulation, and that exemplary punishment should be meted out to a man who acted as the defendant had to the detriment of many hundreds of other persons who were patiently waiting for licences.

It was pointed out that even the imposition of the maximum fine (a sum equal to the cost of the work) would leave the defendant in possession of a new house costing him about £1,900, which he could sell without difficulty for £3,000, and it was suggested that the Bench should consider imposing a term of imprisonment.

The Bench, through their chairman, Judge Tudor Rees, stated that the defendant would serve six months' imprisonment and pay a fine of £960. If the fine was not paid within nine months the defendant would serve a further six months' imprisonment.

The defendant's appeal against sentence was heard at Surrey Quarter Sessions on January 5, 1950.

The fine of £960 was reduced to £611, but the term of imprisonment was not varied, the only difference being that the defendant was given eighteen months in which to pay the fine instead of nine months. The reduction in fine was accounted for by the free limits which had to be allowed by para. (6E) of the regulation (and which had not been allowed at the original hearing), and by certain items which were deleted by the Bench from the bills of quantities forming the basis of the computation of costs.

COMMENT

The writer, who is greatly indebted to Mr. J. Ede, clerk to Leatherhead Urban District Council for this report, has set out the facts and penalty imposed in some detail in the hope that the information may prove of assistance to other justices before whom similar cases may come.

It is always distasteful to sentence to imprisonment a person of good character for what is really only a quasi-criminal offence. In this case, however, as the Council's representative pointed out, any penalty short of imprisonment would have permitted the offender to benefit from his calculated defiance of the law and there can be nothing more detrimental to the administration of justice than for a wrongdoer to be allowed to profit from his misdeed.

It is unusual and, as a general rule, undesirable for the prosecution to seek to influence the Court as to the penalty to be imposed. In the special circumstances of this case it is submitted that there was no impropriety in bringing to light the result which an omission to impose imprisonment would have.

R.L.H.

PENALTIES

Bicester—January, 1950—(1) no driving licence, (2) no insurance certificate—(1) fined 15s., (2) fined £5 and disqualified from driving for twelve months. Defendant the employee of an agricultural contractor.

Woodstock—January, 1950—riding a cycle without a rear light—fined 15s.

Woodstock—January, 1950—carrying a woman pillion passenger, who was not a competent driver on a motor cycle, when defendant held only a provisional driving licence—fined £1.

Oxford—January, 1950—insulting behaviour (four charges)—defendant put on probation and ordered to undergo treatment as a resident in a mental hospital for a period not exceeding twelve months. Defendant, a man of forty-seven with no previous convictions, asked for five other offences to be taken into consideration. Defendant was seen by four girls aged between twelve and nineteen upon dates in November, December and January last to be wearing an overcoat, cap and shoes but no other clothing.

Bristol—January, 1950—having in possession 119 red petrol coupons, on ninety-four of which the cancellation stamp had been erased by bleaching—six months' imprisonment. Defendant, a man of thirty-seven, said he had bought them from a casual acquaintance for £15.

Norwich—January, 1950—selling milk unfit for human consumption (three charges)—fined a total of £30. Defendant a Co-operative Society. In each case fragments of glass were found in bottles of milk.

Oxford—January, 1950—(1) unlawfully selling meat for trade, (2) unlawfully buying meat—(1) fined £12, (2) fined £5. To pay £2 12s. costs. In defendant's shop was found 62*lbs* of manufacturing beef which the manager stated he had bought from a manufacturing butcher for 45s. Manufacturing beef is never issued to retail butchers but only to people who hold manufacturers' licences. Manager fined £2 10s.

Bath—January, 1950—(1) under the influence of drink while in charge of a car—fined £25. To pay £4 17s. costs, disqualified from driving for twelve months. Defendant, a man of twenty-seven, was found in his car with a child. The car was completely blocking a footpath. Defendant unable to stand without assistance.

Oxford Juvenile Court—January, 1950—dangerous driving—fined £2. Disqualified from driving for two years. Defendant, a sixteen year old boy, was riding a motor cycle without holding the handlebars when he hit a group of children.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Children and Young Persons—*Maintenance order under Poor Law Act, 1930—Continuance under new statutes.*

Paragraph 6 (1) of the second schedule of the Children Act, 1948, contains transitional provisions in relation to maintenance orders granted under s. 19 of the Poor Law Act, 1930, and specifically relates to children in approved schools.

I should be glad to know whether this provision is capable of interpretation as relative to contribution orders in respect of children in the care of the local authority, under s. 1 of the Children Act, 1948. S.T.P.

Answer.

No. The paragraph is evidently limited in its application. We should have thought that if a child was chargeable and an order was made on a parent under the Poor Law Act, 1930, that order could appropriately be dealt with under para. 19 (2) of the sixth schedule to the National Assistance Act, 1948, so long as the child remained maintained by the same authority. We are not quite sure that we understand why s. 1 of the Children Act, 1948 is brought into the question, but if, on the facts, it appears that the National Assistance Act is not applicable, we think a fresh contribution order should be obtained under s. 23 of the Children Act, 1948.

2.—Criminal Justice Act, 1948, s. 28—*Effect on R. v. Hertfordshire Justices.*

Section 28 (6) of the Criminal Justice Act, 1948, would appear to conflict with s. 28 (5) (*b*) of the same Act.

Under s. 24 of the Criminal Justice Act, 1925, justices may up to the time of their determination to convict, notwithstanding the accused's consent to be dealt with summarily commit him for trial, but not after their announcement of their intention to convict or after the accused has pleaded guilty.

I enclose a memorandum elaborating the question. SCAJ.

Answer.

The memorandum which accompanied our learned correspondent's letter is, unfortunately, too long to be printed here, but it sets out the position with the utmost clarity. The learned writer of the memorandum has formed the same opinion as our own. He cites an article in our issue of February 19, 1949, and the cases of *R. v. Hertfordshire JJ.* (1910) 75 J.P. 91; *R. v. Sheridan* (1936) 100 J.P. 319 and *R. v. Grant* (1936) 100 J.P. 324, and also Home Office Circular 265/1948, in which it was stated that "the effect of s. 28 (6) of the new Act is that a decision of a court of summary jurisdiction to deal summarily with an indictable offence under s. 11 of the Summary Jurisdiction Act, 1879, or s. 24 of the Criminal Justice Act, 1925, is irrevocable, and that having begun to deal summarily with such an offence, the court may not thereafter take depositions with a view to committal for trial."

It is likely enough that the intention was to override *R. v. Hertfordshire JJ., supra*, as the Home Office Circular seems to show. We ventured to express our doubts about the Home Office view in a note of the week in our issue of January 8, 1949, and we adhere to what we said there, being, indeed, strengthened in our view by opinions we have since heard in support of it, including this latest in the memorandum. We think *R. v. Hertfordshire JJ.*, still stands.

3.—Evidence—*Answers to questions by investigating officer—Whether defence entitled to copy.*

In a recent case in which we were defending in the local magistrates' court the question arose as to whether the defence is entitled to be supplied by the prosecution with details of all verbal replies and remarks made by the defendant to an investigating officer in addition to copies of all written and signed statements.

The prosecuting solicitor and ourselves believe that the defence is so entitled, although we both agree that the facility does not extend to details of any questions which provoked the verbal replies as this would be tantamount to disclosing a part of the evidence of the prosecution.

Unfortunately we are unable to find the authority for such a proposition, if in fact it exists, and a search through *Stone, Archbold* and *Powell on Evidence* has also proved unhelpful. Would you please be good enough to refer us to any authority on the subject which will assist us. S.L.M.C.

Answer.

Like our correspondent, we have not been able to trace any authority on this point. In our opinion the defence is not entitled as of right to demand such copies.

4.—Highway—*Obstruction of street—Order for prevention—Discrimination between vehicles.*

A section of a local Act reads as follows:—"The following provisions with respect to traffic in the streets of the borough shall have effect (that is to say)—The mayor of the borough may from time to time make regulations for the route to be observed by all carts, carriages, horses, cattle, and persons, and for preventing obstruction of the streets in times of holidays, public processions, public meetings, public rejoicings and illuminations, and at such times as the streets are liable to be thronged or obstructed, and give directions to the constables for keeping order, and for preventing noise and obstruction in the neighbourhood of the town hall, police court, theatres, and places of public resort: And any person guilty of any breach of such regulations, or who does not comply with the direction of any constable or officer acting in pursuance of such regulations, shall be liable to a penalty not exceeding five pounds."

My council provides illuminations on the promenade as an autumn attraction for visitors, and during the hours that the lights are switched on the promenade is congested with both vehicles and pedestrians. It is considered that the presence on the promenade, during the period the lights are switched on, of horse-drawn passenger vehicles, particularly wagonettes and hackney carriages, materially adds to the congestion and impedes the free flow of traffic. Will you please advise whether under the section it is competent for the mayor of the borough to make a regulation providing that no horse-drawn passenger vehicle may be driven along the promenade during the period when the lights are switched on? ALA.

Answer.

Had this been *res integra*, we might have doubted whether the mayor could pick and choose, so as to subject horse drawn vehicles to a restriction not imposed on motors. We do not see how a horse-drawn landau, for example can obstruct the street so badly as a motor coach. But the matter is not *res integra*. In *Etherington v. Carter* [1937] 2 All E.R. 528, following a chain of earlier cases upon s. 21 of the Town Police Clauses Act, 1847, which in all essentials is the same as the present local Act section, the order before the High Court did in fact discriminate against particular classes of vehicles. Such an order is made under the limb of the section "for preventing obstruction," and is not limited by the previous mention of "all carts, etc." It seems further that the Court will not inquire into the rationality of the discrimination, regarding this as solely for the council (here, the mayor). We do not think such a drastic power ought to be available without control, but this appears to be the law.

5.—Licensing—*Consent to structural alterations to on-licensed premises—Whether a "temporary servery" such an alteration.*

A room forming part of licensed premises is used occasionally for dances, receptions, etc., and a temporary servery installed. Special orders of exemption as to permitted hours are applied for when these functions are out of normal licensing hours. Intoxicating liquor is only served and consumed in the room in question, which is away from the permanent servery and the licensee or one of his servants attends to the selling.

In view of the fact that the room in question has always formed part of the licensed premises, and that, on the occasions referred to, the rest of the premises are not in use for the sale and consumption of intoxicating liquor, do you consider that the installation of the temporary servery increases the facilities for drinking and thus necessitates the approval of the licensing justices?

NALC.

Answer.

Our correspondent describes the "temporary servery" in such a way as to indicate that it is more in the nature of a piece of furniture than a structural alteration to the premises. The marginal note reference to "structural" alterations in s. 71 of the Licensing Consolidation) Act, 1910, is read as limiting the section (see per Collins, M.R., in *Bushell v. Hammond* (1904) 68 J.P. 370). If the "temporary servery" is not a structural alteration, we advise that no consent by licensing justices is necessary.

6. Local Government Act, 1933, s. 86 (2)—*Article by "Noonsaid"—Estimates from finance committee.*

I have read with interest the contributed article under the above heading in the issue of October 22, 1949. Arising thereon perhaps you could give me your opinion on the position which would arise if a finance committee refused to submit an estimate to the council in the terms of s. 86 (2). The converse query is whether the county council have power to spend money above the statutory limit in cases where the finance committee, in submitting the estimate, recommend that the expenditure therein referred to be not incurred. In the latter case I feel that the council must always have the final word and be able to override its finance committee, but it is not clear what the status of the finance committee is as regards the other committees, and whether the finance committee can in effect pass a final veto on any project of a spending committee. In practice I think most councils take the view that the finance committee must submit its views to the council on any project put forward by another committee, whether favourable or unfavourable, and that this procedure amounts to the submission of an estimate by the finance committee, which empowers the county council to act by way of accepting the advice of its finance committee or rejecting it. I think most councils accept the view of your contributor, that once the annual estimates prepared by the various spending committees have been passed by the finance committee and approved by the council, those spending committees with appropriate delegated powers can then spend a sum exceeding the statutory limit on matters falling within the terms of their estimate, such as salaries, repairs, and equipment. Doubts have, however, been expressed whether annual estimates can properly include items of a non-recurring nature, such as the purchase of real property, where the actual amount required cannot be reasonably determined in advance with any degree of accuracy, or the suitability of the particular property cannot be considered by the finance committee.

A. "HOME-COUNTY."

Answer.

Section 86 (2) of the Act of 1933 is difficult. Taking it alone, we think the finance committee could veto expenditure by not submitting an estimate. We agree that, once the estimate is submitted, the council is seized of the issue and can decide whether to spend or not. An estimate is not the same as a report, for or against, and the subsection does not even say, in terms, that the council must have approved the estimate. (Our contributor "Noonsaid" mentioned approval, but this is not in the subsection.) There may be cases where the finance committee submits an estimate without a report about the merits; there must be cases where it submits an estimate with a report about the merits; and there may be cases (see below) where it feels bound to report that, because of inadequate information from the spending committee, it cannot submit an estimate. This last report stymies the spending committee, but in our opinion an adverse report from the finance committee does not do so, although the wording of the subsection ("a resolution of the council passed on an estimate") is far from clear. Upon the question whether the section obliges the finance committee to submit an estimate at the instance of a spending committee, the absence of recorded cases suggests that a *modus vivendi* has been found in practice; if a finance committee showed signs of assuming too much power, the council could in our opinion require it by standing order to submit an estimate, in circumstances defined by the standing orders. Ordinarily, the council will no doubt wish not merely for the estimate but (as you suggest) for the views of the finance committee. Upon the doubt expressed in the last sentence of the query, our opinion is that the spending committee can, subject to the council's standing orders, include in its annual estimate any item it pleases, but that the finance committee can equally report to the council that it (the finance committee) cannot give an estimate on such and such an item, for such and such a reason. Model standing orders 43 and 44, *Lumley*, p. 3284, do not in terms cover the points in this query, but are not unhelpful.

7. Road Traffic Acts—*Compulsory disqualification—No special reasons—Avoidance of disqualification by conditional or absolute discharge under s. 7 (1) Criminal Justice Act, 1948.*

A, who is a contractor for building work, has a number of vans. He lends a van to B, a friend who is a grocer, for use on his delivery round. The insurance certificate in respect of A's vehicle covers them for use in connexion with his business only. Thus, when B is stopped by police he is summoned for driving uninsured, and A for permitting the use of the uninsured vehicle. If A and B plead guilty and put forward no special reasons as to why their licences shall not be suspended can they be dealt with under s. 7 (1) of the Criminal Justice Act, 1948, and thus, even though convicted, avoid the automatic suspension of their licences?

J.B.W.

Answer.

Orders under s. 7 (1) should be made only if, having regard to the circumstances including the nature of the offence and the character of the offender, the court thinks it inexpedient to inflict punishment and inappropriate to make a probation order. They should not be made, in our view, expressly to avoid the result which Parliament has said shall normally follow conviction for certain offences.

We note that the offences in question appear to have been committed quite deliberately.

8. Road Traffic Acts—*Proof of orders made by councils—Road Traffic Act, 1930, s. 46 and Road and Rail Traffic Act, 1933, s. 29.*

I shall be glad to have your views as to the method of proving an order made under the above acts, in courts. I have raised the matter with the Ministry of Transport and their view is that, although there is no specific statutory cover whereby the rules of evidence can be satisfied by the production of a certified copy under the hand of the clerk of the council, there can be no objection to this course, as opposed to the inconvenience of sending a witness to put in the sealed copy at every prosecution.

It seems to me that there must be specific statutory authority before a copy of a document, albeit certified, can be received in evidence. Statutory rules and orders, byelaws and other documents are all specifically authorized, but I can find nothing which covers an order of the kind I mention.

The Ministry say that the point has not been mentioned before and there must be a large number of orders of the kind now in operation.

J.

Answer.

We have been unable to find any provision dealing with the method of proof of such orders and we think, therefore, that a sealed copy of the order must always be produced.

The due confirmation by the Minister of Transport (since the order is of no effect until duly confirmed by him) will presumably be shown in a document sealed with his seal purporting to be authenticated by an authorized signature.

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Printed by E. J. ACFORD, Ltd., Terminus Road, Chichester, Sussex, and Published by the Proprietors, JUSTICE OF THE PEACE, Ltd., at the Office of the "Justice of the Peace and Local Government Review," Little London, Chichester, Sussex. SATURDAY, February 25, 1950. Price 1s. 8d., post free 1s. 9d.